

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN JOAN ANDERSEN**, on February 3, 2003 at 3:00 P.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Joan Andersen, Chairman (R)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Larry Lehman, Vice Chairman (R)
Rep. Norman Ballantyne (D)
Rep. Norma Bixby (D)
Rep. Gary Branae (D)
Rep. Nancy Fritz (D)
Rep. Carol Gibson (D)
Rep. Verdell Jackson (R)
Rep. Bob Lake (R)
Rep. Bob Lawson (R)
Rep. Joe McKenney (R)
Rep. Clarice Schrumpf (R)
Rep. Pat Wagman (R)

Members Excused: None.

Members Absent: None.

Staff Present: Eddye McClure, Legislative Branch
Mari Prewett, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp in these minutes appears at the end of the content it refers to.

Committee Business Summary:

Hearing & Date Posted: HJ 10, 1/16/2003; HB 422,
1/23/2003; HB 423, 1/23/2003

Executive Action: None

CHAIRMAN ANDERSEN informed the Committee that she had appointed a Subcommittee to work on HB 302. Those appointed to the Subcommittee were **REP. LAWSON, CHAIRMAN, REP. FRITZ** and **REP. LAKE**.

HEARING ON HJ 10

Sponsor: **REP. BOB LAWSON, HD 80, Whitefish**

Opening Statement by Sponsor:

REP. LAWSON told the Committee to remember that a resolution does not have a mandate of law; it is more of a suggestion. **REP. LAWSON** stated the purpose of the bill was to urge the Board of Public Education to integrate the principles of basic personal finance into the content and performance standards established for Montana Public Schools, and to implement the standards into the curricula. He then referred the Committee to the ten "whereas" statements in the bill and to page 2, beginning with line 12, which he read aloud. **REP. LAWSON** stated the ten "whereas" statements are rationales and justifications for a better program dealing with personal finances. He finished by asking the Committee for their positive consideration of HJ 10.

Proponents' Testimony:

Bob Pyfer, Montana Credit Unions League, explained how credit unions operate. He continued stating that they have no capital stockholders and, therefore, their only mission and purpose for existence is to serve the member/owners. **Mr. Pyfer** stated that financial education and financial counseling had always been an important part of credit union philosophy. **Mr. Pyfer** told the committee about a youth financial education program they had launched and how and where it had been put into effect. He went on to talk about the need for teaching the basic skills of consumer finance. **Mr. Pyfer** presented a letter from the Whitefish Credit Union to the Committee and read a portion of that letter. Attached hereto as Exhibit 1.

EXHIBIT (edh23a01)

Marsha Goetting, Extension Family Economics Specialist, MSU Extension Service, stated that she was in support of HJ 10 and felt there was a definite need for financial management education at the high school level. **Ms. Goetting** talked about the National Endowment for Financial Education and the free materials provided by them to be utilized in Montana and the rest of the United

States for financial management education. **Ms. Goetting** continued by explaining about the National Endowment for Financial Education. **Mr. Goetting** provided the committee with three information handouts attached hereto as Exhibit 2, Exhibit 3 and Exhibit 4.

EXHIBIT (edh23a02)

EXHIBIT (edh23a03)

EXHIBIT (edh23a04)

Ranel Perkins, Great Falls Teachers Credit Union, stated that she coordinates financial education with the credit unions and middle schools in Great Falls. She continued by explaining the number of times they go to the middle schools and the lengths and types of the programs presented. **Ms. Perkins** urged support of HJ 10.

Wendy Raney, State Auditor's Office, encouraged support for HJ 10. **Ms. Raney** informed the Committee that the State Auditor's Office is responsible for promoting financial education and awareness. She further stated that they investigate allegations of securities code violations. **Ms. Raney** talked about the large sums of money which are lost each year due to financial scams. She continued, by saying that education is the best protection against fraud. **Ms. Raney** went on to say that they felt students were the best audience to target with the education programs. She continued stating that their office provides every effort to educate students about personal financial management and how their office goes about providing that education.

Maureen Bryan, Golden Triangle Credit Union, Great Falls, stated that she works with Ms. Raney in the Great Falls school system educating students in personal financial management. **Ms. Bryan** continued by saying that she felt that it was important to have personal financial management education taught in the schools and urged the committee to support the bill.

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

REP. LEHMAN asked **REP. LAWSON** at what grade level he envisioned financial education being taught. **REP. LAWSON** answered that he did not know if there was a time that would be considered too early to start educating students in financial management.

REP. LEHMAN asked **REP. LAWSON** if he was promoting that at some point in time this training would be part of the core curriculum in a high school, and if there would have to be accredited teachers with credit given for the class. **REP. LAWSON** replied that he was not doing that at this time.

Closing by Sponsor:

REP. LAWSON stated he had taught in many different fields in different schools across the State in the past. He continued by stating that the lack of knowledge in the area of personal financial management was becoming more of a problem. **REP. LAWSON** stated that he would be willing to work with the Committee before executive action was taken to better understand HJ 10.

{Tape: 1; Side: A; Approx. Time Counter: 0 - 20.8}

CHAIRMAN ANDERSEN explained to the Committee and to the visitors that she would open the hearing on HB 422 and HB 423 and would be conducting the hearings on these bills simultaneously as they dealt with similar subjects. She asked all those that would be testifying to indicate which bill they were addressing if they were not addressing both bills.

{Tape: 1; Side: A; Approx. Time Counter: 20.8 - 22.2}

HEARING ON HB 422 AND HB 423

Sponsor: **REP. CAROL JUNEAU**, HD 85, Browning

Opening Statement by Sponsor:

REP. JUNEAU stated that both HB 422 and HB 423 talk about trying to give preference to teachers in local communities. She went to say that HB 422 talks about Indian preference in some of the schools in Montana and HB 423 talks about local county preferences for some of the schools in Montana. **REP. JUNEAU** talked about the loss of kids from Montana after they have finished their education. She continued explaining that both bills were directed at keeping well-educated, Montana-educated teachers in Montana schools. **REP. JUNEAU** informed the Committee she would be concentrating mainly on HB 422 in her testimony but most of the information pertains to HB 423.

REP. JUNEAU stated that HB 422 would authorize school districts located within the boundaries of an Indian Reservation, or a school with an enrollment of greater than fifty percent Indian kids, to adopt a policy establishing an employment preference for

an Indian applicant that is a resident of Montana and who has substantially equal qualifications. **REP. JUNEAU** referred the Committee to Exhibit 5, which shows the percentages of Indian enrollment in 18 school districts. **REP. JUNEAU** advised the Committee that this was not a requirement for the schools. It would be an optional policy for the school districts to adopt if they chose. She continued by stating that the bill would codify current federal law which requires school districts that receive federal grants or contracts for the benefit of Indians to apply to the greatest extent possible an Indian preference for training and employment in administering the contract or grant.

EXHIBIT (edh23a05)

REP. JUNEAU pointed out that the bill defined who an Indian would be and what the word "position" meant. She read several excerpts from the bill to the Committee. **REP. JUNEAU** stated that another important factor was the definition of "substantially equal qualifications." She continued by stating that it meant that the qualifications of two or more persons, wherein a determination could not be made that one person was considerably better suited for the position than the other, the Indian applicant would have preference. She reiterated that the bill did not say that an Indian would get the job if they were not qualified for the position.

REP. JUNEAU referred to Exhibit 5 and informed the Committee that only about ten percent of the schools in Montana would be impacted by HB 422. She continued by pointing out the various schools that are located within the boundaries of the reservations or have an enrollment of greater than fifty percent Indian children. **REP. JUNEAU** referred to Exhibit 6 which is a quote from an Indian parent on one of the Montana reservations. **REP. JUNEAU** read the quote to the Committee.

EXHIBIT (edh23a06)

REP. JUNEAU stated that she believes that the Indian children in Montana need to be provided with role models in their classrooms. She continued by asking that if they do not see Indian teachers in their classrooms or Indian administrators, what message is being sent? **REP. JUNEAU** talked about the advantages of having local, qualified teachers teaching the children. She continued informing the committee about the teacher education classes being taught in the local community colleges.

REP. JUNEAU then described HB 423 and stated that it was very similar to HB 422. She continued that it basically allowed school boards the option of developing a preference policy where

a resident of the county in which the school district was located having substantially equal qualifications would be given preference. **REP. JUNEAU** stated they were trying to encourage the local kids to stay in their local communities.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 9.1}

Proponents' Testimony:

Sharon Wagner, Montana-Wyoming Indian Education Association, stated that her organization supported HB 422. **Ms. Wagner** reported to the Committee that the Montana-Wyoming Indian Education Association had passed a resolution in 2002 to support Indian-preference-hiring in public schools on or near reservations. She continued by describing the makeup of the association. **Ms. Wagner** distributed copies of the resolution attached as Exhibit 7 and proceeded to read excerpts from that resolution.

EXHIBIT (edh23a07)

Ms. Wagner then spoke on behalf of the Indian Law Clinic of the University of Montana. She presented to the Committee copies of the letter which the Indian Law Clinic had provided as testimony, attached hereto as Exhibit 8. **Ms. Wagner** read most of the letter to the Committee.

EXHIBIT (edh23a08)

Lance Melton, Montana School Boards Association, stated he was speaking in support of HB 422 as they have no position on HB 423. **Mr. Melton** went on, saying that State law already provides the preference for State agencies. He commented that the bill creates local options which in turn supports local control. **Mr. Melton** advised the Committee that the bill targets districts that are located entirely within the boundaries of the reservations or have significant populations of American Indian students. **Mr. Melton** reported that a great way to introduce children to education and ensure their continued involvement in education is to have relevant role models. He continued by saying that the language was very similar to the language on state agency preferences.

Bob Gervais, School District 9, Browning, stated he rose in support of HB 422 and 423. He explained by saying he felt that giving preference to local people and Indians was a big step forward and also could help the unemployment problem. **Ms. Gervais** informed the Committee that on the reservations, the

school districts are the biggest employers. **Mr. Gervais** also stated that there should be a priority to educate the children so that they can come back to the reservations and local communities to work. He continued that there should be more Indians in the education field.

Curly Bear Wagner, Blackfeet Nation, Browning, talked about Indians in the past. He remarked about the walls that have been built between the Indian race and other races which have caused isolation and have kept the new generation below social standards. **Mr. Wagner** stated he was in favor of both HB 422 and HB 423, as it gives the Indian people an opportunity to work on the reservations and support their culture.

{Tape: 1; Side: B; Approx. Time Counter: 9.1 - 25.4}

Linda Gryczan, Montana Women's Lobby, stated they support HB 422. **Ms. Gryczan** talked about the difference in cultures between the Indians and non-Indians. She continued by stating that it is hard for a non-Indian teacher to relate to the students, thereby making it difficult to teach them.

James St. Goddard, Interim Chairman, Blackfeet Nation, stated that he was speaking in support of HB 422. **Mr. Goddard** informed the Committee of the differences in the structure of Indian education and public school education and the culture shock it causes for Indian children. He explained that on the Blackfeet Reservation, all children attend Head Start. The Head Start classes are conducted in a traditional setting. He continued that when these children enter public school they do not do well, as the setting is too structured. In the end it causes a high rate of dropouts. **Mr. Goddard** presented to the committee a letter from Rodney Gervais, Tribal Employment Rights Office in support of HB 422, attached as Exhibit 9. He also presented an excerpt from Article III of the 1896 Treaty Agreement with the Blackfeet, attached as Exhibit 10, to the committee. **Mr. Goddard** read the excerpt out loud.

EXHIBIT (edh23a09)

EXHIBIT (edh23a10)

George Ochenski, Confederated Salish-Kootenai Tribes of the Flathead Nation, stated that in his ten years of representing the Salish-Kootenai, he agreed that there is much to be learned from Indian friends. **Mr. Ochenski** read written testimony from D. Fred Matt, Tribal Chairman. Attached as Exhibit 11.

EXHIBIT (edh23a11)

REP. NORMA BIXBY, HD 5, Lame Deer, spoke in support of HB 422 and HB 423. **REP. BIXBY** stated that she felt that these were two very important bills to the Indian children in Montana. She went on saying that the public schools that serve the Indian reservations are vital to the communities. **REP. BIXBY** continued, indicating that the public schools are one of the largest economic resources on the reservations. Schools, BIA, Indian Health Service and tribal programs are the primary source of employment for reservation residents. **REP. BIXBY** informed the Committee of some statistics available and provided the Committee with two handouts. These handouts are attached as Exhibits 12 and 13. **REP. BIXBY** proceeded to go through the information provided on Exhibit 12. After going over Exhibit 12, **REP. BIXBY** referred the Committee to Exhibit 13 and went through the information provided on that handout.

EXHIBIT (edh23a12)

EXHIBIT (edh23a13)

David Knopfle, School District 9, Browning, stated he supported HB 422. **Mr. Knopfle** spoke to the Committee regarding his family and talked about the cultural ways of Indians. He continued that he felt it was important that for Indian students to be taught by Indian teachers, who understand Indian culture, so that more Indian children would stay in school and complete their education.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 24.1}

Opponents' Testimony: None

Informational Testimony:

Jeff Weldon, Legal Counsel, Office of Public Instruction (OPI), informed the Committee about an enforcement mechanism which is built into the bill. He continued, referring to page 1, line 28 of HB 422 and page 1, line 15 of HB 423. He explained that what the section means is that if someone is aggrieved by the decision of the board, they would be able to appeal the decision to the County Superintendent. Then if they were still not satisfied they could appeal to the State Superintendent. If that did not settle the matter it could be appealed to the District Courts through the Administrative Procedures Act.

Questions from Committee Members and Responses:

REP. LAKE asked James St. Goddard since they were talking about a public school on the reservation that is controlled by a board with strong Blackfeet influence on it, if the instruction was

being done because of direction given by accreditation from OPI and, if so, where the bill would come in to clear it up. **Mr. Goddard** stated that they follow OPI rules constantly because of funding. He continued that because most, if not all, of their funding comes from OPI, they are afraid if they do not follow state and federal law they would lose that funding. **Mr. Goddard** went on to say that the board members are thoroughly screened as to whether or not they will follow the law. He then stated that if the preference issue were addressed in law, they would have an opportunity to work together with the State and not have to worry about the loss of school funding.

REP. LAKE asked Mr. Goddard if since they had a board with strong numbers of Blackfeet members, why they were not hiring more Blackfeet teachers with more of the Blackfeet culture being introduced into the classrooms giving stability for the young people to stay in school. **Mr. Goddard** responded that it they want to do what the state is doing. He went on to talk about the past, the oppression of the Indians and the evolving of the Indian Nation. **Mr. Goddard** continued by saying that they want their children to have a good education. Therefore, they totally respect the laws of the State. He stated that there is a strong desire to move in the direction of more Indian teachers, and that is why they are waiting for this bill to go through. He went on to say that they would implement whatever the State tells them is allowed.

REP. LAKE asked Mr. Goddard if he believe that when the bill is on the books that the tribal members on the school board will feel free to employ teachers more to their desire. **Mr. Goddard** replied that he felt they would.

REP. GIBSON asked REP. JUNEAU if there were going to be Indian students getting ready to be teachers. She went on the ask about the reference to the community colleges which are only a two year program. **REP. JUNEAU** answered that there were five teacher-training programs at the tribal colleges in Montana. She pointed out that the tribal colleges were cooperating with various four-year colleges for the students to complete their four-year degrees.

REP. GIBSON asked REP. JUNEAU if the students went to the tribal colleges for two years, then continued their education at a four-year institute. **REP. JUNEAU** stated that was what the students would do.

REP. GIBSON further asked REP. JUNEAU if they were getting more students who were interested in becoming teachers because with this bill they would feel they could get a job. **REP. JUNEAU**

answered that she felt the students would see that there was an opportunity for them to be employed in the schools. She continued by informing the committee that even though teaching might be thought of as a low paying job on the reservations teaching is one the best jobs available in term of salary and benefits.

REP. GALVIN-HALCRO referred REP. JUNEAU to the handout regarding districts located wholly or within the exterior boundaries of Indian reservations and the percentages of Indian enrollment. She asked REP. JUNEAU to get her the information as to what percent of teachers in those districts were Native American.

REP. JUNEAU replied that she did not have that information but would ask OPI to see if they could get that percentage for her.

REP. GALVIN-HALCRO asked Jeff Weldon if there was a non-Indian teacher on the reservation who did not have tenure, would that teacher, for the first three years of their career, have to reapply for that position if a Native American teacher wanted that position. **Mr. Weldon** stated that each year contracts for non-tenured teachers are reviewed and renewed or not. He continued that each year the trustees would have to look at their hiring pool and make judgments on each contract that they were entering into.

REP. BIXBY asked REP. JUNEAU if Montana had any constitutional law that supports the bill. **REP. JUNEAU** replied that in Article 10, Section 1, Subsection 2 of the Constitution there is language that was added in 1972 by the framers of the Constitution that says: "The State recognizes the unique cultural heritage of the American Indian and is committed in its educational goals to the preservation of their cultural integrity." She said that there certainly was constitutional language in the State of Montana that supports the bill.

REP. BIXBY asked REP. JUNEAU if there were any other laws that support the two bills. **REP. JUNEAU** talked about the Attorney General's ruling in 1989, which stated that school districts could not practice Indian preference under the Human Rights Act of Montana. She continued that since that time there was a case decided December 30, 2002, Shook v. State of Montana, which severely weakens the 1989 ruling. The Shook decision recognizes Morton v. Mancarey, the famous Indian-preference case which allows the practice of Indian preference in hiring. **REP. JUNEAU** continued by saying that Shook says the State can use the Mancarey decision in their laws. **REP. JUNEAU** also referenced other laws which talk about Indian preference in hiring.

REP. JACKSON referred Jeff Weldon to line 25 of HB 423 and asked him to explain what "substantially equal qualifications" meant as a legal term. **Mr. Weldon** stated that he believed it meant a reasonable determination of the qualifications by the Board of Trustees. **Mr. Weldon** went on to say he believed it was a question that would have to be determined by the Board of Trustees.

REP. JACKSON asked Jeff Weldon if there was not some legal way to include in the hiring language system that would indicate that the applicant must have knowledge of the culture. **Mr. Weldon** stated that he thought that was correct and referred the question to Eddy McClure of Legislative Services. **Ms. McClure** answered that was how it works now. She continued that "substantially equal qualifications" is the definition that is used both for veterans preference and for handicap preference. She further stated that what needed to be remembered was where it was applied. **Ms. McClure** pointed out to the Committee that the preference would not be applied until it had been determined that there was little or no difference between the qualifications of the applicants. **Ms. McClure** stated that it was very important, when putting together a job description for applicants, that those descriptions are precise and clear as to what qualifications are needed to be hired for the position.

{Tape: 2; Side: B; Approx. Time Counter: 0 - 22.8}

REP. JACKSON asked Ms. McClure if they could put within the application a requirement that the applicant would need knowledge of the culture of the community, rather than an Indian preference. He continued by asking if Ms. McClure could discuss which would be the best way to go to accomplish the goal. **Ms. McClure** answered that it was a policy question.

REP. BALLANTYNE asked **REP. JUNEAU** for her opinion: if this were in place, would it encourage more Native American students to pursue an educational background because they might feel they would have a chance to be hired? **REP. JUNEAU** stated she was absolutely certain that it would. She continued that they would know it was a potential career and that there was an opportunity to be hired.

Closing by Sponsor:

REP. JUNEAU closed saying that Morton v. Mancarey recognized that a special relationship existed between American Indians and the federal government, and that the relation allowed for preference to be given to American Indians in certain situations. She continued by saying that when preferential treatment was

reasonable or rationally related to the special trust obligations to Indians, it would be legitimate to differentiate in legitimate public interest. **REP. JUNEAU** further referred to Morton v. Mancarey and stated that other State action was permissible where it benefitted Indians and was reasonably and rationally related to the fulfillment of trust obligations to Indians. She continued by stating that in Montana, with the constitutional language, the requirement of reasonable and rational had been met. **REP. JUNEAU** stated that she would get the information for the Committee that had been requested prior to taking Executive Action. She asked the Committee to support HB 422 and HB 423.

Attached as Exhibits 14 - 19 are letters in support of the bills and other related informational material.

EXHIBIT (edh23a14)

EXHIBIT (edh23a15)

EXHIBIT (edh23a16)

EXHIBIT (edh23a17)

EXHIBIT (edh23a18)

EXHIBIT (edh23a19)

{Tape: 3; Side: A; Approx. Time Counter: 0 - 7.3}

ADJOURNMENT

Adjournment: 5:00 P.M.

REP. JOAN ANDERSEN, Chairman

MARI PREWETT, Secretary

JA/MP

EXHIBIT (edh23aad)